Remarks

Reconsideration of this application is respectfully requested. Claims 1-18 were last presented for examination. Claims 1-18 have been cancelled without prejudice in favor of a continuing, reissue and/or reexamination application. New claims 19-36 are presented for further examination.

Drawings

New drawings have been submitted to overcome the objection of the Examiner. A separate letter to the Official Draftsman is included with this amendment.

Claim Objections

Claim 4 has been cancelled without prejudice rendering the objection to claim 4 moot.

Rejections under 35 U.S.C. § 1.112

Claims 1, 10 and 11 have been cancelled without prejudice to render the rejection under 35 U.S.C. § 1.112 moot.

Rejections under § 1.101

Claims 1-13 have been cancelled without prejudice to render the rejection under 35 U.S.C. § 1.101 moot.

Section 103 Rejections

Claims 1-10 and 12-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Odom in view of Case.

Claims 1-10 and 12-17 have been cancelled without prejudice, thereby rendering this rejection moot.

Odom discloses a real time network exchange with seller specified exchange parameters and interactive seller participation similar to the Ebay auction system. The system of Odom is an electronic network based exchange system that includes a server system that hosts transaction operations, and client terminals that are connected to the server via a communications network. The exchange host is operated by an exchange operator. Sellers and buyers access the exchange to list items and bid on listed items via client terminals in an auction. Figure 1 illustrates the system of Odom. The exchange provider 100 has an internal portion 101 that is not accessible to clients and an external

portion 103 that is accessible to clients. The internal portion includes a database 130 that is connected to an internal proxy 140 that functions as a processor for processing information provided by the database 130, the external proxy 150 and the exchange processor 120. The exchange processor 120 is a controller that manages the exchange and receives and processes bids. The internal portion 101 is separated from the external portion 103 by a security firewall 102. The listing 160 is a database that provides information about items that can be bid upon. The external proxy 150 is a processor that handles communication from the network 110. The listing 150 also accepts items to be listed for bidding by a client 170. Clients 170 are connected to the network 110, which in turn connects to the exchange provider 100.

Figure 2 of Odom discloses the basic functions of the exchange. At step 200 the specifications for the mode of operation are entered in the device. These include whether there is public or private access to the exchange, whether it is an open or closed exchange and whether seller intervention, among other functions, are provided by the exchange. At step 205, the goods and services information is entered. At this step, the seller identifies the goods and provides descriptions of those goods including a classification of the goods. At step 210, the information regarding the goods is made available to the clients for bidding. At step 215 a potential purchaser accesses the exchange. At step 220, the exchange processes the potential purchaser information. At step 225, bidding is performed and negotiations are performed and concluded. This system is then cleared. As is clear from the description of Odom et al., Odom is a public/private exchange system in which bids are submitted by potential buyers in an auction type of system similar to Ebay.

Case et al. discloses a method and apparatus for detecting and deterring the submission of similar offers in a commerce system. The system disclosed by Case et al is a system that is used in a Priceline-type of reverse-auction system in which potential buyers submit their own price for services, such as tickets for airlines. Buyer-generated conditional purchase offers (CPOs) are received by the system from individual consumers at a buyer-defined price. If the CPO is accepted by the seller, a binding contract is formed between the parties and the buyer is obligated to purchase the tickets.

One of the problems with this type of system is that a buyer may start at a low price and progressively increase the price so as to ping the system until the seller's floor price is reached. The system of Case et al. is intended to stop the submission of repetitive offers of incrementally larger amounts to determine the seller's floor price. As indicated in column 4, lines 57+, the seller's identity may be kept secret during the bidding process, but is no longer kept secret after the seller accepts the offer. Since the seller is the supplier of the services, i.e., the airplane ticket, the seller's identity necessarily becomes known to the buyer at some point in time, either during or after the transaction, as indicated by Case et al.

Claims 11 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Odom and Case and further in view of Doyle. Claims 11 and 18 have been cancelled without prejudice to render this rejection moot.

Doyle et al discloses a computer integration network for channeling internal orders for goods within an organization through a centralized computer to various internal and external suppliers. In other words, Doyle et al. discloses a standard computerized ordering system that is used to order products. The electronic requisitioning system of Doyle et al. channels requisition orders to internal suppliers and outside vendors and processes invoices using a centralized computer system. In accordance with Doyle et al., a customer accesses an electronic item catalogue and requisition form to place an order that is transmitted to a central computer system. Requisitions are then segregated by the supplier and sent as separate purchase orders to the appropriate internal suppliers and outside vendors. The outside vendors ship the items directly to the customer. Invoices are centrally processed and the customer receives a combined invoice for all items and may transmit payment back through the central computer system. In column 7, lines 57+, Doyle et al. discloses a mark-up data file 1445 that may be used to convert the price for an item paid by the central supplier to the price charged to the customer for that item.

Newly submitted claims 19-36 clearly distinguish from the art of record. None of the references disclose a system in which the supplier remains anonymous to purchasers. For example, claim 19 recites "generating entries in said system that include said sales

price, said product identification information, said product manufacturer information and listings of goods by said suppliers that distinguish said goods listed by said suppliers but that do not reveal the identity of said suppliers so that said suppliers remains anonymous to purchasers at all times while said goods are listed on said system and after said goods are sold." None of the references cited by the Examiner maintain the anonymity of the supplier to sellers. Case et al. maintains the anonymity of the seller, but only up until the time that the seller accepts the offer. There is no disclosure or teaching in Case et al. or any of the references that maintains the anonymity of the seller both during the sale and after the sale is completed, as recited in applicant's claim 19.

Further, none of the references recite "generating entries in said system that include said sales price, said product identification information, said product manufacturer information and listings of goods by said suppliers that distinguish said goods listed by said suppliers." In other words, the system lists the sales price the product and identification information without identifying the supplier. Purchasers can pick and choose from various lots that are placed for sale on the system by supplier according to the pricing that the supplier has specified to meet the requirements of the purchaser. This limitation is not disclosed or even remotely suggested in any of the references.

Further, claim 29 recites "supplying information about said supplier including fill grade and fill rate" which allows the purchaser to determine shipment time and other information about the supplier in making a choice as to which lots to purchase and whether the goods are likely to be received within a required amount of time. This is done without ever identifying the supplier of the goods. This feature is also not disclosed or taught by any of the references.

Further, Case et al. comprises a Priceline type of "name your own price" reverse auction bidding system. Sellers do not list the price of the item as they do in accordance with Applicant's claimed invention. Applicant's claim 19 clearly differs from Case et al. in this regard. For example, claim 19 recites "receiving product information for said goods that is uploaded by suppliers over a network to said system which includes product manufacturer, product identification information and a price specified by said suppliers

for said goods; ... generating entries listing in said system that include said sales price ... making said listing of goods available to said purchasers through a network connection to allow said purchasers to purchase said goods at said sales price." These limitations are not shown or suggested in Case et al. since the Case system allows the buyer to name his own price, not the seller.

Similarly, Odom et al. discloses an Ebay type of auction system and, likewise, does not meet the limitations of claim 19, as specified above, because the price, by definition, is not specified in an auction.

Further, none of the references disclose "accepting a shipping tracking number, shipping method and ship date" as set forth in claim 21, "accepting payment in an escrow account set up for said supplier" as set forth in claim 23, "generating a listing that includes product information comprising the manufacturer of the goods and a part number" as set forth in claim 26, "providing product information in an aggregated searchable database and through links to third party websites and databases" as set forth in claim 28, "supplying information about the performance of said supplier including fill grade and fill rate" as set forth in claim 29, providing a searchable database that "provides the ability to search in-stock products, products available by geographical region and a cross reference by product number" as set forth in claim 30, and allowing the purchasers to "access said system over the Internet through a third party marketplace" as set forth in claim 32. None of the references discloses or even remotely teaches any of these limitations.

Hence, even if the references could be combined, as suggested by the Examiner, the references would still not teach all of the limitations of newly presented independent claim 19 and consequently all of the claims dependent thereon, i.e., claims 20-36. Also, claims 21, 23, 26, 28, 29, 30 and 32 distinguish for the additional reasons that are set forth above. In other words, the combination of these references still do not show all of the limitations of Applicant's claims.

Further, there is no motivation to combine these references. Case discloses a Priceline type of reverse auction, while Odom discloses an Ebay type of auction system and Doyle discloses a standard computerized ordering system. The principles of

operation of these three references are very different. Under the system of Odom et al., i.e. the Ebay auction system, the highest price wins. Under the system of Case et al., a price submitted by a buyer of services is accepted if it is above the secret floor price of the seller. Under the system of Doyle et al., which is a standard computerized ordering system, the prices are made available to the buyer, but there is no reason to keep the identity of the vendor secret. To combine these three references would require a major modification of the methods of operation of these systems and would render them inoperative.

The test for obviousness under 35 U.S.C. 103 is whether the claimed invention would have been obvious to those skilled in the art in light of the knowledge made available by the reference or references. In re Donovan, 184 USPQ 414, 420, n. 3 (CCPA 1975). It requires consideration of the entirety of the disclosures of the references. In re Rinehart, 189 USPQ 143, 146 (CCPA 1976). All limitations of the claims must be considered. In re Boe, 184 USPQ 38, 40 (CCPA 1974). In making a determination as to obviousness, the references must be read without benefit of applicants' teachings. In re Meng, 181 USPQ 94, 97 (CCPA 1974). In addition, the propriety of a Section 103 rejection is to be determined by whether the reference teachings appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed substitution, combination, or other modifications. In re Lintner, 173 USPQ 560, 562 (CCPA 1972).

A basic mandate inherent in Section 103 is that a piecemeal reconstruction of an applicant's invention using multiple references without any motivation to combine the references shall not be the basis for a holding of obviousness. It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. In re Kamm, 172 USPQ 298, 301-302 (CCPA 1972).

It is also clearly established in the case law that a change in the mode of operation of a device which renders that device inoperative for its stated utility, as set forth in the cited reference, renders the reference improper for use to support an obviousness-type

rejection predicated on such a change. See, e.g. Diamond International Corp. v. Walterhoefer, 289 F. Supp. 550, 159 USPQ 452, 460-64 (D.Md. 1968); Ex parte Weber, 154 USPQ 491, 492 (3d. App. 1967). In addition, any attempt to combine the teachings of one reference with that of another in such a manner as to render the invention of the first reference inoperative is not permissible. See, e.g., Ex parte Hartmann, 186 USPQ 366 (3d. App. 1974); and Ex parte Sternau, 155 USPQ 733 (3d. App. 1967).

The combination of references as suggested by the Examiner does not meet the standards of obviousness set forth by the courts, for the reasons stated above.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Dated this 9th day of August 2004.

Respectfully submitted,

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